

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Corry Alexis Hawkins,

Petitioner

v.

Calvin Johnson, et al.,

Respondents

Case No.: 2:20-cv-01852-JAD-VCF

**Order Granting Motions for Leave to File  
a Second Amended Petition and to File  
Exhibits Under Seal**

[ECF Nos. 14, 17]

Petitioner Corry Alexis Hawkins petitions under 28 U.S.C. § 2254 for relief from his state-court convictions for conspiracy to commit murder, burglary while in possession of a deadly weapon, murder with the use of a deadly weapon, and possession of a firearm by an ex-felon.<sup>1</sup> He has filed a motion for leave to file a second amended petition,<sup>2</sup> which respondents oppose.<sup>3</sup> I grant this motion and waive the requirement of LR 15-1(a) that Hawkins attach a proposed amended petition to his motion for leave to amend. Hawkins also has filed a motion to file exhibits under seal.<sup>4</sup> Because the exhibit in question contains confidential information that should not be part of the public record, I grant that motion.

**I. Procedural History**

On August 30, 2020, Hawkins dispatched his initial, proper-person petition to this court.<sup>5</sup> After reviewing the petition, I provisionally appointed the Federal Public Defender to represent

<sup>1</sup> ECF No. 9.

<sup>2</sup> ECF No. 14.

<sup>3</sup> ECF No. 18.

<sup>4</sup> ECF No. 17.

<sup>5</sup> ECF No. 9.

1 Hawkins.<sup>6</sup> After the Federal Public Defender indicated that he could represent Hawkins, I  
2 formally appointed counsel and directed Hawkins to file a counseled first amended petition.<sup>7</sup>

3 Hawkins did not formally file a first amended petition. Instead, on May 24, 2021,  
4 Hawkins filed a counseled motion for leave to file a second amended petition.<sup>8</sup> He attached the  
5 first amended petition as an exhibit to his motion for leave to file a second amended petition.<sup>9</sup> In  
6 the motion, Hawkins states that he believes the one-year period of limitation<sup>10</sup> expires on May  
7 24, 2021, and thus he is filing a first amended petition contemporaneously with a motion for  
8 leave to amend.<sup>11</sup> I assume that Hawkins intended to file the first amended petition as a separate  
9 docket entry and that he made a clerical error. Hawkins will need to file the first amended  
10 petition for the sake of a consistent record.

## 11 **II. Discussion**

### 12 **A. The motion for leave to file a second amended petition [ECF No. 14]**

13 Respondents do not persuade me to deny the motion for leave to amend simply because  
14 Hawkins has not attached a proposed second amended petition to the motion.<sup>12</sup> LR 15-1(a)  
15 states that a proposed amended pleading must be submitted with the motion for leave to amend  
16 unless otherwise permitted by the court. When the court appoints counsel to represent habeas  
17 corpus petitioners, as a matter of course, the court grants counsel leave to file an amended

---

19 <sup>6</sup> ECF No. 10.

20 <sup>7</sup> ECF No. 13.

21 <sup>8</sup> ECF No. 14.

22 <sup>9</sup> ECF No. 14-1.

22 <sup>10</sup> 28 U.S.C. § 2244(d)(1).

23 <sup>11</sup> ECF No. 14 at 2.

<sup>12</sup> See ECF No. 18 at 2. See also LR 15-1(a).

petition without first submitting a proposed amended petition. The only difference here is that counsel has filed a first amended petition before the one-year deadline to minimize the probability that grounds for relief in a better researched and considered second amended petition would not relate back to a timely petition.<sup>13</sup> I see no reason to depart from my usual practice in habeas cases. So I waive the requirement of LR 15-1(a) that Hawkins attach a proposed second amended petition to his motion for leave to file a second amended petition.

**B. The motion to file exhibits under seal [ECF No. 17]**

In Hawkins's motion to file exhibits under seal, he asks to seal a report that contains a psychological evaluation, a neuropsychological evaluation, and a death-penalty mitigation evaluation.<sup>14</sup> Because these evaluations contain confidential medical and psychological information, compelling reasons exist to file these documents under seal.<sup>15</sup>

**III. Conclusion**

IT IS THEREFORE ORDERED that:

- Petitioner has until December 27, 2021, to file the first amended petition, currently in the docket at ECF No. 14-1;
- The motion to file exhibits under seal **[ECF No. 17] is GRANTED.**
- The motion for leave to file a second amended petition **[ECF No. 14] is GRANTED. Petitioner has until February 15, 2022, to file a second amended petition.**


<sup>13</sup> See Fed. R. Civ. P. 15(c). See also *Mayle v. Felix*, 545 U.S. 644, 650 (2005).

<sup>14</sup> ECF No. 17 at 2.

<sup>15</sup> *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178–79 (9th Cir. 2006).

- The briefing schedule in the order of February 5, 2021, [ECF No. 13] remains in effect.

Dated: December 15, 2021

  
\_\_\_\_\_  
U.S. District Judge Jennifer A. Dorsey